

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF EASTERN WISCONSIN**

Civil Action No. 2:21-cv-01192-LA

GAIGE GROSSKREUTZ;

Plaintiff;

v.

THE CITY OF KENOSHA, a municipal corporation;
KENOSHA COUNTY, a municipal corporation;
DAVID BETH, in his individual and official capacities;
DANIEL MISKINIS, in his individual and official capacities;
JOHN & JANE DOE POLICE OFFICERS 1-100, in their individual capacities;
COUNTY OF WAUKESHA;
COUNTY OF RACINE;
COUNTY OF SAUK;
COUNTY OF WALWORTH;
COUNTY OF WASHINGTON;
VILLAGE OF MENOMONEE FALLS;
CITY OF WEST ALLIS; and
KYLE RITTENHOUSE;

Defendants.

**PLAINTIFF'S ANSWER TO DEFENDANT KYLE RITTENHOUSE'S COUNTERCLAIM
COMPLAINT**

Plaintiff Gaige Grosskreutz, by and through his attorneys, Kimberley Motley of Motley Legal Services and E. Milo Schwab of Ascend Counsel, LLC, respectfully provides his Answer to Defendant Kyle Rittenhouse's Counterclaim Complaint as follows:

I. PARTIES

1. Mr. Grosskreutz admits the allegations contained in paragraph 1.
2. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 2. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

II. FACTUAL ALLEGATIONS COMMON TO COUNTERCLAIMS AND AFFIRMATIVE DEFENSES

3. Mr. Grosskreutz admits the allegations contained in paragraph 3.
4. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 4. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
5. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 5. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
6. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 6. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
7. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 7. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
8. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 8. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

9. Mr. Grosskreutz admits the allegations contained in paragraph 9 to the extent that such allegation states that protesting continued for several days. To the extent that such allegations define the protests as “rioting,” Mr. Grosskreutz lacks the knowledge to admit or deny such allegations. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
10. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 10. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
11. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 11. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
12. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 12. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
13. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 13. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
14. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 14. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
15. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 15. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

16. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 16. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
17. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 17. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
18. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 18. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
19. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 19. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
20. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 20. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
21. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 21. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
22. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 22. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

23. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 23. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
24. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 24. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
25. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 25. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
26. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 26. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
27. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 27. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
28. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 28. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
29. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 29. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

30. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 30. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
31. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 31. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
32. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 32. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
33. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 33. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
34. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 34. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
35. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 35. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
36. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 36. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

37. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 37. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
38. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 38. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
39. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 39. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
40. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 40. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
41. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 41. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
42. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 42. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
43. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 43. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

44. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 44. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
45. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 45. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
46. Mr. Grosskreutz denies the allegations contained in paragraph 46.
47. Mr. Grosskreutz admits the allegations contained in paragraph 47 to the extent that it alleges that law enforcement created a police line south of the Kenosha Police station and County Courthouse and that such line pushed south several blocks. Mr. Grosskreutz denies that the intent of law enforcement in such action was “because of rioting and destruction,” to any categorization of individuals as “rioters,” and to representations regarding freedom of movement.
48. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 48. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
49. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 49. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
50. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 50. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

51. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 51. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
52. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 52. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
53. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 53. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
54. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 54. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
55. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 55. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
56. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 56. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
57. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 57. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

58. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 58. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
59. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 59. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
60. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 60. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
61. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 61. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
62. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 62. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
63. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 63. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
64. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 64. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

65. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 65. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
66. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 66. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
67. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 67. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
68. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 68. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
69. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 69. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
70. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 70. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
71. Mr. Grosskreutz lacks the personal knowledge to admit or deny the allegations contained in paragraph 71. However, Mr. Grosskreutz understands from news media the Mr. Rosenbaum did in fact die from the wounds inflicted by Defendant Rittenhouse.

72. Mr. Grosskreutz lacks the personal knowledge to admit or deny the allegations contained in paragraph 72 to the extent that they suggest Mr. Rittenhouse's intentions. Mr. Grosskreutz admits the allegations contained in paragraph 72 to the extent that they state that Mr. Grosskreutz recorded portions of the event on his cell phone and to his personal knowledge of Mr. Rittenhouse's killing of Mr. Rosenbaum.
73. Mr. Grosskreutz admits the allegations contained in paragraph 73.
74. Mr. Grosskreutz denies the allegations contained in paragraph 74.
75. Mr. Grosskreutz admits that he stopped running at some point however denies the remaining classifications and conclusions offered by Mr. Rittenhouse in paragraph 75.
76. Mr. Grosskreutz denies the allegations contained in paragraph 76.
77. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 77. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
78. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 78. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
79. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 79. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
80. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 80. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

81. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 81. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
82. Mr. Grosskreutz admits the allegations contained in paragraph 82 to the extent that Mr. Grosskreutz approached Mr. Rittenhouse. Mr. Grosskreutz denies the allegations to the extent that they characterize other individuals as a mob and the characterization that Mr. Grosskreutz approached with a loaded pistol.
83. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 83 to the extent that they reflect Mr. Rittenhouse's observations. To the extent that paragraph 83 alleges that Mr. Grosskreutz had his pistol drawn, Mr. Grosskreutz denies such allegation.
84. Mr. Grosskreutz admits the allegations contained in paragraph 84.
85. Mr. Grosskreutz denies the allegations contained in paragraph 85.
86. Mr. Grosskreutz denies the allegations contained in paragraph 86.
87. Mr. Grosskreutz denies the allegations contained in paragraph 87.
88. Mr. Grosskreutz denies the allegations contained in paragraph 88.
89. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 89. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
90. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 90. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

91. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 91. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
92. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 92. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
93. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 93. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
94. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 94. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
95. Mr. Grosskreutz denies the allegation contained in paragraph 95 that Mr. Rittenhouse clearly acted in self-defense. Mr. Grosskreutz admits the allegations that Mr. Rittenhouse was prosecuted for his killings and his attempted killing of Mr. Grosskreutz and another unarmed individual.
96. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 96. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
97. Mr. Grosskreutz denies the allegations contained in paragraph 97. The jury found that they could not disprove that Mr. Rittenhouse had not acted in self-defense.

98. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 98. To the extent that a response is required, Mr. Grosskreutz denies such allegations.
99. Mr. Grosskreutz denies the allegations contained in paragraph 99.
100. Mr. Grosskreutz denies the allegations contained in paragraph 100.
101. Mr. Grosskreutz lacks the knowledge to admit or deny the allegations contained in paragraph 101. To the extent that a response is required, Mr. Grosskreutz denies such allegations.

LEGAL CLAIMS

COUNT I:

Assault

102. Mr. Grosskreutz incorporates each paragraph of this Answer as if fully restated herein.
103. Mr. Grosskreutz denies the allegations contained in paragraph 103.
104. Mr. Grosskreutz denies the allegations contained in paragraph 104.
105. Mr. Grosskreutz denies the allegations contained in paragraph 105.
106. Mr. Grosskreutz denies the allegations contained in paragraph 106.
107. Mr. Grosskreutz denies the allegations contained in paragraph 107.

COUNT II:

Intentional Infliction of Emotion Distress

108. Mr. Grosskreutz incorporates each paragraph of this Answer as if fully restated herein.
109. Mr. Grosskreutz denies the allegations contained in paragraph 109.
110. Mr. Grosskreutz denies the allegations contained in paragraph 110.
111. Mr. Grosskreutz denies the allegations contained in paragraph 111.

COUNT III:

Negligent Infliction of Emotion Distress

112. Each of the Paragraphs of this Complaint is incorporated as if fully stated herein.
113. Mr. Grosskreutz denies the allegations contained in paragraph 113.
114. Mr. Grosskreutz denies the allegations contained in paragraph 114.
115. Mr. Grosskreutz denies the allegations contained in paragraph 115.
116. Mr. Grosskreutz denies the allegations contained in paragraph 116.

AFFIRMATIVE DEFENSE

1. Counterclaim Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Counterclaim Plaintiff's Complaint is frivolous and groundless, entitling Mr. Grosskreutz to attorney's fees and costs.
3. Counterclaim Plaintiff has failed to reasonably mitigate his damages.
4. Counterclaim Plaintiff's claims are barred by the defense of self-defense.
5. Counterclaim Plaintiff's claims are barred by the defense of third persons defense.
6. Mr. Grosskreutz reserves the right to assert any and all additional affirmative defenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor and against each Defendant, and award him all relief allowed by law, including but not limited to the following:

- a. All appropriate relief at law and equity;
- b. For dismissal of Counterclaim Plaintiffs' Complaint on the merits and with prejudice;
- c. For attorney's fees and costs; and
- d. Any other appropriate relief at law and equity that this Court deems just and proper.

COUTNERCLAIM DEFENDA DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Respectfully submitted this 26th day of April 2023.

/s/ Kimberley Cy. Motley
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ATTORNEYS FOR PLAINTIFF